IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1044 (S/S) of 2006

Gopal lal, son of Sri Bhadu Lal, resident of Village – Devar, Post Office – Pokhari, Tehsil – Pokhari, District – Chamoli.

……Petitioner

V e r s u s

1. State of Uttaranchal through its Secretary, Agriculture, Government of Uttaranchal, Dehradun.

2. Chief Agriculture Officer, District – Chamoli.

3. Assistant Agriculture Inspector, Pokhari, District – Chamoli.

……Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Pankaj Purohit, learned counsel for the petitioner and Sri Paresh Tripathi, learned counsel for State of Uttaranchal on behalf on respondent.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, petitioner has prayed for the following reliefs:

(a) issue a writ, order or direction in the nature of Certiorari to call for record and to quash the impugned transfer order contained in order Letter No. 525/ Krishi – 4/ Establishment / Transfer / 2006 – 07 dated Nil passed by Chief Agriculture Officer District – Chamoli, the respondent no. 2 contained in Annexure No. 3 by which the petitioner has been transferred from Seed Depot, Pokhari to Seed Depot, Joshimath, District – Chamoli.

(b) issue a writ, order or direction in the nature of Mandamus commanding the respondents not to interfere in the functioning of the petitioner at Seed Depot, Pokhari pursuant to the impugned transfer order contained in order/Letter No. 525/ Krishi – 4/ Establishment / Transfer / 2006 – 07 dated Nil passed by Chief Agriculture Officer, District – Chamoli, the respondent no. 2

(c) issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(d) award the cost of the petition to the petitioner.

Petitioner is aggrieved by Order No. 525/ Agriculture – 4/ Establishment / Transfer / 2006 – 07 dated Nil passed by Chief Agriculture Officer, District – Chamoli by which petitioner has been transferred from Seed Depot, Pokhari to Seed Depot, Joshi Math on administrative ground.

Petitioner has challenged this transfer order on the ground that transfer order has been passed in violation of Transfer policy dated 27.06.2006 issued by State Government. In clause 5 of the Transfer Policy it is provided that transfer on administrative ground should not be done casually on the basis of motivated complaint. If there is complaint against an employee, the competent authority must verify the genuineness as well as substance of the complaint and only after verifying whether the complaint is genuine or not transfer should be made on administrative ground.

In the present case, according to the petitioner though the transfer has been made on the basis of complaint but the

competent authority has not verified the substance and genuineness of the complaint and has transferred the petitioner casually, which is against the transfer policy issued by State Government.

It is well settled law that transfer policy does not have any statutory force. There are only guidelines. But it is expected from the Government Officer of the State Government to follow the guidelines mentioned in the Transfer Policy as far as possible because the same has been issued by the State Government of implementation.

In view of the above, I deem it fit and proper to direct the petitioner to make representation before respondent no. 2, raising all his grievances within a period of ten days form today and it is expected that respondent no. 2 shall decide the representation of the petitioner by speaking order within a period of three weeks from the date of production of certified copy of this order along with representation.

With this direction the writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J)

August 02, 2006
SKSharma